

**UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

IN RE: _____)
)
) (name)) CASE NO.: _____
) (name))
) (address))
) (address))
Soc. Sec. # XXX-XX-_____))
Soc. Sec. # XXX-XX-_____))

**NOTICE TO CREDITORS,
PROPOSED PLAN, AND
MOTION TO VALUE CLASS FOUR CLAIMS**

You should read this proposed plan carefully and discuss it with your attorney. This proposed plan requests that you accept its terms and it contains evidentiary matter, which, if not controverted, may be accepted by the court as true. For example, the proposed plan may attempt to modify your claim by: paying less than its full value, setting the value of the collateral securing your claim, modifying the contract interest rate, or by changing your status from secured to unsecured. The proposed plan may be confirmed without further notice based on the information and valuations it contains if no objection is timely filed. Any objection to the proposed plan filed by any party other than the Chapter 13 Trustee must be in writing and must be filed with the court no later than ten days after the date first set for the meeting of creditors under section 341(a) of the Bankruptcy Code. In cases where the proposed plan is not filed within ten days before the date first set for the meeting of creditors under section 341(a) of the Bankruptcy Code, objections must be filed within twenty days after the filing of the proposed plan, or three days before the scheduled confirmation hearing, whichever is sooner.

This plan does not allow claims. You must file a proof of claim to be paid even if you are listed on the bankruptcy schedules. The Trustee will mail payments to the address provided on the proof of claim form unless the creditor provides another address in writing for payments. If the claim is subsequently assigned or transferred, the Trustee will continue to remit payment to the original creditor until a formal notice of assignment or transfer is filed with the court. If the Debtor(s) propose(s) to pay a claim directly, then the failure of a creditor to file a proof of claim does not excuse the Debtor(s) from making the required direct payments; provided, however, that if any part of a claim is to be paid by the Trustee, the creditor must file a proof of claim.

The Debtor(s) is/are, claiming to be:

- ☐ Above the median family income for the Debtor(s) applicable State
- ☐ Below the median family income for the Debtor(s) applicable State

Any changes made to the language of this model plan by the Debtor(s) must be placed in bold faced font.

I. Plan Payments and Length

The Debtor(s) shall pay \$_____ over the life of the plan, payable in [weekly, bi-weekly, or monthly] installments of \$_____ over a total period of _____ months to the Trustee. OR,
The Debtor(s) anticipate changes in income and expenses over the course of the plan and propose payments as follows:

The Debtor(s) shall make [weekly, bi-weekly, or monthly] installment payments to the Trustee in the amount of \$_____ over a total period of _____ months to the Trustee.

Then \$_____ [weekly, bi-weekly, or monthly] for a total period of _____ months

Then \$_____ [weekly, bi-weekly, or monthly] for a total period of _____ months.

The Schedule I net income listed for the Debtor(s) is \$_____

The Schedule J expenses claimed by the Debtor(s) is \$_____

If the Debtor(s) is/are claiming to be above the median income for the applicable State of residence, then the amount that the Debtor(s) contend(s) is the monthly disposable income under 11 U.S.C. § 1325(b)(2) is \$_____ (Line 58, Form B22C).

The Debtor(s) shall make plan payments by:

☐ A wage withholding order issued pursuant to General Order 06-02:

(Name of Employer) _____

(Address) _____

(Telephone) _____

☐ Direct payment by the Debtor(s) (General Order 6-02 requires a motion be made explaining why there is to be no wage withholding order, if applicable.).

In addition to the monthly plan payments proposed by the Debtor(s), the following additional property is dedicated to pay claims against the Debtor(s): _____

(Specify property or indicate if none).

EFFECTIVE DATE. Plan payments shall commence not later than 30 days after the filing of the petition. The amount of the monthly plan payment may be increased without notice at or before the confirmation hearing, altered to pay post-petition claims filed by creditors under 11 U.S.C. § 1305, or altered after confirmation pursuant to a modification under § 1329. The proposed plan length runs from:

☐ the date that the first plan payment is made pursuant to § 1326(a)(1)

☐ the date of confirmation

ADEQUATE PROTECTION PAYMENTS. If a secured creditor is being paid through the Trustee, then all adequate protection payments required by § 1326(a)(1) shall be made through the Trustee, in the amount set forth in this proposed plan, unless otherwise ordered. Such payment shall be subject to the Trustee's percentage fee and shall be made in the ordinary course of the Trustee's business; provided, however, that the Trustee is not obligated to make any pre-confirmation adequate protection payments to a secured creditor until that creditor files a proof of claim.

II. Plan Analysis - Total Payments Provided For In the Plan (not including any amounts paid outside the plan directly by the Debtor(s))

Class One	\$ _____
Class Two	\$ _____
Class Three	\$ _____
Class Four	\$ _____
Class Five	\$ _____
Class Six	\$ _____
Other	\$ _____
Total	\$ _____

III. Classification of Claims and Valuation of Secured Property

With respect to each allowed secured claim paid during the life of the plan, the collateral for which is not surrendered, the holder of such claim shall retain the lien securing the claim until the earlier of (1) payment of the underlying debt as determined under non-bankruptcy law; or (2) discharge. Should this case be dismissed or converted before the plan is completed, the lien securing an allowed secured claim shall be retained by the holder to the extent recognized by non-bankruptcy law.

Class One - Allowed, Priority, Unsecured Claims Under § 507 of the Bankruptcy Code

(1) Trustee's Fees. The Trustee will receive from all disbursements such amount as is approved by the Court for payment of fees and expenses. The Trustee's fees are estimated to be 10% of each monthly disbursement. The Debtor(s) have proposed a pot plan of reorganization that pays a gross base of \$ _____ over ____ months; thus the total estimated Trustee's fee is \$ _____.

(2) Attorney's Fees. The Attorney for the Debtor(s) will be paid a base fee of \$ _____. The Attorney received \$ _____ from the Debtor(s) pre-petition and the remainder of the base fee will be paid after confirmation of this plan and concurrently with any secured debt payments and any domestic support obligation that is to be paid by the Trustee; provided, however, that funds are to be applied first to long term mortgage debts paid through the Trustee, second to equal monthly payments to other secured creditors, third to domestic support creditors, and only then to attorney's fees. Attorney's fees are to be paid, in-full, before any plan payment is applied to an arrearage claim or before payment is applied to any other priority or unsecured debts. In the event that this plan is not confirmed, the attorney may apply to the court for compensation to the extent that the Trustee holds pre-confirmation funds paid by the Debtor(s).

(3) Domestic Support Obligations.

☐ The Debtor(s) have no domestic support obligations

☐ The name and address of the holder of any domestic support obligation as defined in 11 U.S.C. § 101(14A) is as follows: (Do not disclose the names of minor children)

(If the name and address are confidential, then please state "Confidential" and inform the Trustee privately)

Name of DSO Claimant and/or Agency	Address, City, and State	Zip Code

Payments on Domestic Support Obligations will be made as follows:

Name of DSO Claimant	Estimated Arrearage to be Paid in the Plan	Payment Amount for On-Going Monthly DSO obligations. Indicate if Post-Petition payments are to be made by the Trustee ("T"), or the Debtor ("D")

(4) Other Priority Claims as defined by 11 U.S.C. § 507

Creditor	Type of Priority	Estimated Amount Owed
		\$

Unless the holder of a Class One claim agrees to different treatment, the Debtor will pay all Class One claims in full, in deferred payments, provided a proof of claim has been filed, if applicable. The amount and timing of each monthly payment is subject to the discretion of the Trustee.

Class Two - Debts Secured Only by the Principal Residence of the Debtor(s)

☐ There are no Class Two creditors treated in this plan;

☐ The mortgage(s) is/are treated outside the plan; the Debtor(s) is(are) not in arrears on the mortgage debt and will directly pay the mortgage holder \$_____ per month. Such direct payments will last either for ☐ the duration of the plan, or, if the mortgage will be paid in full during the pendency of the plan, then the debtor anticipates that the direct payments will last for ____ months

☐ Treatment of Class Two claims are as follows:

The property address of the principal residence of the Debtor(s) is: _____

Treatment of Arrearage: (Any pre-petition arrearage must be paid through the Trustee and will be paid in the plan at 0% interest pursuant to 11 U.S.C. § 1322(e) unless otherwise ordered by the court. The amount of the arrearage debt listed is estimated and is subject to change based on the Creditor's timely filed and allowed secured claim. No payment on a mortgage arrearage claim will be made by the Trustee until after attorney's fees are paid in full.)

Lien Holder	Amount of Arrearage	Proposed Equal Monthly Payment Amount / Adequate Protection Payment

Payments on Non-Arrearage Debt: (If a pre-petition arrearage on a mortgage is being paid by the Trustee as indicated above, then payment on the non-arrearage debt must be made through the Trustee. Unless a Class Two debt is paid in full in the plan, Class Two home mortgages are to be paid as long term debts pursuant to 11 U.S.C. § 1322(b)(5) and are excepted from discharge pursuant to § 1328(a)(1). The creditor should notify the Trustee of any change in the amount of the monthly mortgage payments. In the event the Trustee receives notification of a change in payments from the Debtor(s), counsel, or the holder of the mortgage note, the Trustee will change the monthly payment amount and will notify the Debtor(s) and counsel in writing of the change if the correspondence came directly from the holder of the note.)

Lien Holder	Regular Monthly Payment	Pre-Confirmation Adequate Protection Payment / Post-Confirmation Equal Monthly Payment (if paid in the plan)	Payoff Amount and Interest Rate (if paid off during the plan by the Trustee)

Class Three - Secured Claims Not Subject to Valuation Under 11 U.S.C. § 506, Over-Secured Claims, and Collateral to be Surrendered or Sold (creditor claims that are (1) secured by a purchase money security interest in a motor vehicle acquired for the personal use of the Debtor(s) within 910 days preceding the filing date of the petition or any other personal property collateral acquired within one year preceding the filing date of the petition; (2) oversecured claims, or (3) collateral to be surrendered or sold).

☐ There are no Class Three claims treated in this plan

☐ Treatment of Class Three claims are as follows:

Payment of Arrearage: (Arrearage debts must be paid in full through the plan. No interest will be paid on arrearage debts pursuant to 11 U.S.C. § 1322(e). The amount of the arrearage debt listed is estimated and is subject to change based on the Creditor's timely filed and allowed secured claim.)

Creditor	Collateral	Total Arrearage	Equal Monthly Payment

Payment of Non-Arrearage Debt In the Plan: (If an arrearage is paid through the plan, and if the debt is not treated as a long term debt under 11 U.S.C. § 1322(b)(5), then the Trustee must also make the regular monthly payments on the non-arrearage debt.)

Creditor	Collateral	Total Owed (excluding arrearage)	Proposed Interest Rate	Pre-Confirmation Adequate Protection Payment / Post-Confirmation Equal Monthly Payment	Total Number of Payments	Total Paid in Plan

Payment of Non-Arrearage Debt Outside the Plan (The Debtor(s) will make payments directly to the creditor(s) outside the plan pursuant to the parties' underlying contract terms)

Creditor	Collateral	Monthly Contract Payment	Interest Rate	Number of Payments to be made if less than plan length

The Debtor(s) propose(s) to surrender or sell the following collateral. If the collateral is surrendered or sold and is: (1) a motor vehicle acquired for the personal use of the Debtor(s) within 910 days preceding the filing date of the petition, or (2) any other personal property collateral acquired within one year preceding the filing date of the petition, then no unsecured deficiency claim will be allowed. All net proceeds after the payment of secured debts and the costs of sale shall be paid to the Trustee for distribution. A Class Three creditor that is entitled to a deficiency claim must file that claim within 90 days after confirmation if real or personal property is surrendered by the Debtor(s), or within 30 days of a sale that is conducted by the Debtor(s). Property to be sold by the Debtor(s) that is not sold in the applicable time period will be surrendered to the creditor unless the Trustee requests additional time, or unless the Debtor modifies the plan to retain the collateral and cure existing defaults.

Creditor	Collateral	Amount Owed	Debtor's Valuation of the Collateral	Indicate if Surrendered or to be Sold	Time to complete sale, if applicable

MOTION TO VALUE CLASS FOUR CLAIMS

Class Four -Secured claims which are paid in full in the Plan, and which are not otherwise treated in Class Three.

☐ There are no Class Four claims treated in this plan.

☐ The Class Four Creditor(s) will be paid in full in the plan

The Debtor moves to value the collateral indicated below. The Trustee shall pay allowed secured claims the value of the collateral as indicated. The excess of creditor claims shall be treated as an unsecured claim. Any claim listed at NO VALUE in the value column below will be treated as an unsecured claim and the lien is avoided pursuant to 11 U.S.C. § 506.

Creditor	Collateral	Amount Owed	Debtor's Valuation	Interest Rate	Pre-Confirmation Adequate Protection Payment / Post-Confirmation Equal Monthly Payment

NOTICE OF HEARING TO VALUE SECURED PROPERTY

Notice is hereby given that pursuant to § 506(a) of the Bankruptcy Code the Debtor(s) move to value the secured property listed in Class Four of this plan. The Debtor is the owner of the property serving as collateral, is aware of its condition, and believes that its value is as set forth above. If you object to the motion, you must file your objection(s) within 10 days following the date first set for the § 341(a) meeting of creditors. In cases where the motion is not filed within ten days before the date first set for the meeting of creditors under section 341(a) of the Bankruptcy Code, objections must be filed within 20 days after the filing of the motion, or 3 days before the scheduled confirmation hearing, whichever is sooner. If an objection is filed and remains unresolved before confirmation, a § 506 valuation hearing will be held on the date and time set for the confirmation of the plan.

Class Five - Timely Filed and Allowed Non-Priority Unsecured Claims.

Class Five claims will be paid pro rata. The Debtor(s) estimate that Class Five claims will receive ____% of their claims. Payment of any dividend will depend on the amount of secured and priority claims allowed and the total amount of all allowed unsecured claims. No payment will be made until unsecured priority claims are paid in full, and no payment will be made on Scheduled claims unless a proof of claim is filed.

The value as of the effective date of the plan of property to be distributed in the plan on account of each allowed unsecured claim is not less than the amount that would be paid on such claim if the estate of the Debtor(s) was(were) liquidated in Chapter 7 of the Bankruptcy Code on that date. The percentage distribution to general unsecured creditors in Chapter 7 is estimated to be ____%, as shown on Exhibit A attached hereto.

Class Six - Executory Contracts / Unexpired Leases

The following executory contracts and/or leases will be rejected. The Debtor(s) shall surrender any property covered by rejected executory contracts or leases to the affected creditor no later than the date this plan is confirmed.

Creditor	Nature of the Lease or Contract

The following executory contracts and/or leases will be assumed.

Creditor	Nature of lease of contract	Monthly payment (Indicate if payments will be made in the plan (Y/N))	Arrearage amount	Arrearage monthly payment (Indicate if payments will be made in the plan (Y/N))

Class Seven - Post-Petition Claims Under Bankruptcy Code § 1305.

Post-petition claims allowed under Bankruptcy Code §1305 shall be paid in full in equal monthly installments commencing no more than 30 days after the filing of the claim and concluding on the date of the last payment in the Plan, unless a timely objection is filed.

Other Plan Provisions

A. Co-Debtor Claims

The Debtor chooses to separately classify for payment in full the following claims for consumer debts on which an individual is liable with the Debtor(s)

Creditor	Co-Debtor	Interest Rate	Monthly Payment / Number of Months	Paid by the Trustee ("T") of the Debtor ("D")	Total Payments if Paid In the Plan

B. Additional Classes. The Debtor proposes to separately classify the following claims:

[There are no additional classes of claims]

C. Motions to Avoid Lien(s) Under 11 U.S.C. § 522(f).

The Debtor(s) will file a separate motion to avoid the following judicial liens or nonpossessory, nonpurchase money security interests (The recommended form motion and order for avoiding judicial liens is available on the court's website: www.wvnb.uscourts.gov). This plan does not operate to avoid the liens listed below and a separate motion may be filed either before or after this plan is confirmed.

Creditor	Collateral

D. All property of the estate under sections 541 and 1306 of the Bankruptcy Code will continue to be property of the estate following confirmation.

E. There are no other plan provisions.

Dated: _____

Attorney for the Debtor(s)

I declare under penalty of perjury that the foregoing is true and correct.

Debtor

Joint Debtor

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Chapter 13 plan was sent, via first class mail, postage pre-paid, to all the creditors listed on the attached creditors' matrix on this ____ day of _____, 20____.

I certify that a true and correct copy of the foregoing Chapter 13 plan was sent either electronically or by first class mail, postage pre-paid, to the following additional parties pursuant to Fed. R. Bankr. P. 7004, 9014, and/or 9036 on this ____ day of _____, 20____.

DEBTOR OR DEBTOR'S ATTORNEY

Exhibit A: Liquidation Analysis

ASSETS

Real Property

Property Value	\$ _____
(List each piece of real estate separately)	
Less First Mortgage	\$ _____
Less Second Mortgage	\$ _____
Less Claimed Exemptions	\$ _____
Less a 10% Cost of Sale	\$ _____
Net Equity (do not enter an amount <0)	\$ _____

Motor Vehicles

Property Value	\$ _____
Less Liens (secured portions only)	\$ _____
Less Claimed Exemptions	\$ _____
Less a 10% Cost of Sale	\$ _____
Net Equity (do not enter an amount <0)	\$ _____

Other Assets

Property Value	\$ _____
Less Secured Portion of Liens	\$ _____
Less Claimed Exemptions	\$ _____
Less a 10% Cost of Sale	\$ _____
Net Equity (do not enter an amount <0)	\$ _____

Avoidable Liens / Transfers

Fraudulent Transfers	\$ _____
Preference Recoveries	\$ _____
Avoidable Lien Recoveries	\$ _____

UNSECURED LIABILITIES

Total Priority Claims on Schedule E

Claims on Schedule E	\$	_____
Less Non-Priority Portions	\$	_____
Net Priority Claims	\$	_____

Total General Unsecured Claims

Unsecured Claims on Schedule F	\$	_____
Unsecured Portions on Schedule D	\$	_____
Avoidable Liens / Transfers	\$	_____
Non-Priority Portions on Schedule E	\$	_____
Total General Unsecured Claims	\$	_____

LIQUIDATION COMPARISON

Outcome under Chapter 7

Total Non-Exempt Equity (add the net equity in real property, motor vehicles, other assets and the total amount of avoidable transfers)	\$	_____
Less Chapter 7 Trustee's Fees (25% of first \$5,000; 10% of \$5,001 to \$50,000; 5% of \$50,001 to \$1,000,000)	\$	_____
Less Payment of Ch 7 Trustee's Attorney's Fees	\$	_____
Less Payments to Priority Claims	\$	_____
Amount Payable to General Unsecured Claims:	\$	_____
Total General Unsecured Claims	\$	_____
Percentage Distribution		_____ %

Outcome under Proposed Plan

Total Plan Payments	\$	_____
Less Chapter 13 Trustee's Fees	\$	_____
Less Outstanding Attorney's Fees	\$	_____
Less Payments to Priority Claims	\$	_____
Less Payments to Secured Claims	\$	_____
Amount Payable to General Unsecured Claims	\$	_____
Total General Unsecured Claims	\$	_____
Percentage Distribution		_____ %